

**AMENDMENT NO. 1 TO ENERGY PURCHASE AGREEMENT**

This AMENDMENT NO. 1 TO ENERGY PURCHASE AGREEMENT ("Amendment No. 1") is made and entered into on the 21st day of June, 2005, by and between the Department of Water Resources, a department within the Resources Agency, an agency of the State of California, with respect to the Department of Water Resources Electric Power Fund separate and apart from its powers and responsibilities with respect to the State Water Resources Development System ("Department"), and Sempra Generation (f/k/a Sempra Energy Resources), a California corporation.

**RECITALS**

WHEREAS, Department and Sempra Generation previously entered into the Energy Purchase Agreement dated May 4, 2001 (the "Agreement");

WHEREAS, aspects of the Agreement are at issue in the FERC proceeding in *Public Utilities Providing Service in California under Sellers' Choice Contracts*, Docket No. EL04-108-000, *et al.* (the "Seller's Choice Proceeding");

WHEREAS, Department and Sempra Generation have entered into the Settlement Agreement, dated April 1, 2005 (the "Settlement Agreement"), pursuant to which Department and Sempra Generation have agreed to settle the Seller's Choice Proceeding as it relates to the Agreement by amending the Agreement as provided herein, which amendment is subject to certain conditions, including, but not limited to, (i) FERC's approval without modification or condition unacceptable to Sempra Generation or Department, of the offer of settlement filed on April 7, 2005 by Department and Sempra Generation in the Seller's Choice Proceeding (the "Offer of Settlement"); and (ii) FERC's acceptance, without modification or condition unacceptable to Sempra Generation or Department, of the Physical Validation Rule (as defined below);

WHEREAS, on June 10, 2005, FERC issued an order, *California Indep. Sys. Operator, Corp.*, 111 FERC ¶ 61,386 (2005), approving the Offer of Settlement; and

WHEREAS, on June 10, 2005, FERC issued an order, *California Indep. Sys. Operator, Corp.*, 111 FERC ¶ 61,384 (2005), approving the Physical Validation Rule in principle, without modification or condition;

NOW, THEREFORE, in consideration of the foregoing, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Sempra Generation and Department hereby agree as follows:

**AGREEMENT**

1. Definitions. All capitalized terms used, but not otherwise defined herein, shall have the meaning given to them in the Agreement.

2. Amendment to Agreement.

2.1 New Definitions. Section 1.01 of the Agreement is amended by adding the following new definitions:

“Amendment No. 1 Effective Date” means the date that the Cal ISO implements LMP and the Physical Validation Rule.

“Approved PVR” means the market rule that imposes a physical trade validation requirement on CAISO Settled Nodal Trades as identified, described and defined in the Cal ISO’s March 15, 2005 filing with FERC made pursuant to Section 205 of the FPA in Docket No. ER02-1656-025 provided that such market rule is approved as filed, without modification or condition unacceptable to either Department or Seller.

“Cal ISO Settled Nodal Trades” means Inter-SC Trades that are: (i) settled by the Cal ISO pursuant to applicable Cal ISO tariffs, rules or protocols at individual Nodes; (ii) comparable in form to those trades made by Seller and Department directly or through their respective contractors, agents or scheduling coordinators for the exchange of Energy under this Agreement; and (iii) made by market participants similarly situated to Seller and Department for the exchange of electricity. Cal ISO Settled Nodal Trades do not include Inter-SC Trades that are not comparable in form to those made by Seller and Department under this Agreement, or trades of electricity made by market participants not similarly situated to Seller and Department, including without limitation, trades related to metered subsystems and/or arising from virtual bidding at individual Nodes.

“Claimed Material Adverse Modification” shall have the meaning set forth in Section 2.13(c) of this Agreement.

“Claiming Party” shall have the meaning set forth in Section 2.13(a) of this Agreement.

“Comparable Nodal Trades” means bilateral energy trades that: (i) do not exist as of April 1, 2005; (ii) are settled by the Cal ISO at individual Nodes; (iii) are comparable in form to, and are used by market participants substantially as the equivalent of, Inter-SC Trades; and (iv) but for the requirements of Amendment No. 1, could be used by Seller to deliver all Energy at Nodes under this Agreement.

“Declared Section 2.12 Non-Effective Period” shall have the meaning set forth in Section 2.13(e) of this Agreement.

“EZ Gen Hubs” mean the trading hubs established as part of the implementation of LMP on the transmission grid controlled by the Cal ISO based on generation buses in the currently existing Cal ISO Zones.

“Inter-SC Nodal Trades” means deliveries of Energy by Seller or its agents, contractors or scheduling coordinators to Department or its agents, contractors or scheduling coordinators by Inter-SC Trade for settlement at Nodes.

“Inter-SC Trades” means scheduling coordinator to scheduling coordinator trades of

Energy between Seller, Department and/or their respective agents, contractors or scheduling coordinators on the transmission grid controlled by the Cal ISO that are settled by the Cal ISO pursuant to applicable Cal ISO tariffs, rules or protocols.

“Inter-SC Trading Hub Trades” means deliveries of Energy by Seller or its agents, contractors or scheduling coordinators to Department or its agents, contractors or scheduling coordinators by Inter-SC Trade scheduled for settlement at Trading Hubs.

“LAPs” mean the load aggregation zones established as part of the implementation of LMP on the transmission grid controlled by the Cal ISO based on load buses in the service territories of Pacific Gas & Electric Company, Southern California Edison Company and San Diego Gas & Electric Company.

“LMP” or “LMP System” means locational marginal pricing, a transmission congestion management system that assigns prices to power at Nodes on the transmission system based upon resources, loads and the transmission grid configuration.

“Material Adverse Modification” shall have the meaning set forth in Section 2.13(b) of this Agreement.

“New Amendment” shall have the meaning set forth in Section 2.13(d) of this Agreement.

“New Settlement Agreement” shall have the meaning set forth in Section 2.13(d) of this Agreement.

“Nodes” means the LMP nodes assigned by the Cal ISO to physical locations on the transmission grid controlled by the Cal ISO as of the effective date of the implementation of LMP on the transmission grid controlled by the Cal ISO, as may be modified from time to time, at which Seller may deliver Energy to Department. Nodes do not include Trading Hubs.

“Non-Claiming Party” shall have the meaning set forth in Section 2.13(a) of this Agreement.

“Non-Section 2.12 Nodal Deliveries” means deliveries of Energy for settlement at Nodes made during a Declared Section 2.12 Non-Effective Period without using Inter-SC Nodal Trades that are scheduled, delivered, invoiced and otherwise settled in compliance with Section 2.12(c) of Amendment No. 1 as if Section 2.12(c) of Amendment No. 1 were in effect.

“Notice of Material Adverse Modification” shall have the meaning set forth in Section 2.13(a) of this Agreement.

“Physical Validation Rule” means Approved PVR as modified from time to time.

“PVR Notice” shall have the meaning set forth in Section 2.13(a) of this Agreement.

“Related Entity” with respect to Seller, means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries,

controls, or is controlled by, or is under common control with, such person. For this purpose, "control" means the direct or indirect ownership of ten percent (10%) or more of the outstanding capital stock or other equity interests having ordinary voting power. "Related Entity" with respect to Department means any State of California department, agency, commission or board.

"Scheduling Intertie Points" means any points (i) that are not Nodes, Trading Hubs, the Merchant 230-kV Delivery Point, or the Hassayampa 500-kV Delivery Point, and (ii) to which, and only to the extent that, deliveries of Energy are permitted under this Agreement.

"Section 2.12 Effective Period" means any period during that portion of the Term beginning on the Amendment No. 1 Effective Date that is not a Section 2.12 Non-Effective Period.

"Section 2.12 Non-Effective Period" means any period during that portion of the Term beginning on the Amendment No. 1 Effective Date in which the Cal ISO is using an LMP system for managing transmission congestion and any one or more of the following occurs and is continuing: (i) the Physical Validation Rule ceases to be a market rule that is applicable to all Cal ISO Settled Nodal Trades; or (ii) the Cal ISO develops and implements Comparable Nodal Trades that are not subject to the Physical Validation Rule, or some substantially equivalent form of physical validation.

"Trading Hubs" mean (i) EZ Gen Hubs and (ii) LAPs. Trading Hubs do not include Nodes.

2.2 New Section 2.12. The Agreement is amended by inserting the following new Section 2.12:

"Section 2.12. Deliveries During any Section 2.12 Effective Period.  
Notwithstanding any other provision of this Agreement to the contrary, Seller and Department agree that, for the duration of each Section 2.12 Effective Period:

(a) The definition of "Cal ISO Delivery Points" in Section 1.01 of this Agreement is amended by adding the following sentence to said definition:

"In the event the Cal ISO balances loads and resources to assure physical deliveries of the Energy under the Agreement, "Cal ISO Delivery Points" shall also mean the Trading Hubs."

(b) All deliveries of Energy under this Agreement, other than permitted deliveries of Energy to the Merchant 230-kV and Hassayampa 500-kV Delivery Points and to Scheduling Intertie Points, shall be made by Inter-SC Trade.

(c) All Inter-SC Nodal Trades shall be subject to the Physical Validation Rule. The Delivery Point for any portion of an Inter-SC Nodal Trade that is invalidated under the Physical Validation Rule in post-market confirmation shall, for purposes of this Agreement, including, without limitation, Section 2.01 of this Agreement, be deemed to be the EZ-Gen Hub in which the individual Node to which Seller proposed to schedule the Energy resides. Such EZ-Gen Hub shall be the deemed Delivery Point and the basis

for settlement of the Inter-SC Nodal Trade notwithstanding any modifications of the Physical Validation Rule that may provide for settlement elsewhere or using a different price. Seller shall be responsible for any costs or charges imposed on or incurred by Seller or any of its Affiliates acting on its behalf with respect to the application of the Physical Validation Rule to all deliveries of Energy under this Agreement through Inter-SC Nodal Trades, including, without limitation, any charges associated with deliveries to the deemed Delivery Points as provided in this Section 2.12 (c), notwithstanding any other provisions of this Agreement, including, without limitation, Section 2.01 or Section 2.04 of this Agreement.

(d) Only if, and only to the extent that, deliveries of Energy to the Merchant 230-kV and Hassayampa 500-kV Delivery Points and Scheduling Intertie Points are permitted under this Agreement, such deliveries shall not be subject to the Physical Validation Rule. Permitted deliveries to Scheduling Intertie Points shall be physical and shall be subject to validation through Western Electricity Coordinating Council and North American Electric Reliability Council and/or other applicable protocols.

(e) Inter-SC Trading Hub Trades shall not be subject to the Physical Validation Rule or the provisions of Section 2.04.

(f) In the event of any conflict or inconsistency between the term(s) of Amendment No. 1 and any other term(s) of this Agreement, including, without limitation, Section 2.01, Section 2.04 and Section 2.05 of the Agreement, the terms of Amendment No. 1 shall control for the duration of each Section 2.12 Effective Period.

2.3 New Section 2.13. The Agreement is amended by inserting the following new Section 2.13:

“Section 2.13. Material Adverse Modification to Physical Validation Rule. Notwithstanding any other provision of this Agreement to the contrary, Seller and Department agree that, for the duration of each Section 2.12 Effective Period:

(a) No later than fifteen (15) days after the earlier of (i) the receipt of written notice or other documentation from the Cal ISO that the Cal ISO intends to seek acceptance from FERC for a modification to the Physical Validation Rule; or (ii) the docketing with FERC of any filing in any proceeding initiated by the Cal ISO or any other entity or person that is not a Related Entity of the party claiming that the proposed modification would constitute a Material Adverse Modification (the “Claiming Party”) seeking a modification of the Physical Validation Rule (in either event a “PVR Notice”), Seller and/or Department, as applicable, as Claiming Party shall provide written notice to the other party (the “Non-Claiming Party”) and to the Cal ISO that the Claiming Party believes the proposed modification would constitute a Material Adverse Modification (a “Notice of Material Adverse Modification”).

(b) “Material Adverse Modification” means a modification to the Approved PVR that: (i) results from any proceeding initiated by the Cal ISO or by any other entity or person that is not a Related Entity of the Claiming Party; (ii) either individually or

together with one or more previously-implemented modifications to the Approved PVR is determined by FERC (x) materially and substantially to increase the Claiming Party's burdens or materially and substantially to decrease the Claiming Party's benefits under, and in relation to the value of, the Agreement (as amended by Amendment No. 1); or (y) materially and substantially to disadvantage Seller as the seller under, and in relation to the value of, the Agreement (as amended by Amendment No. 1) and/or Department as the buyer under, and in relation to the value of, the Agreement (as amended by Amendment No. 1) relative to other market participants similarly situated to Seller and/or Department; and (iii) is ordered by FERC and takes effect on or before September 30, 2011; provided, however, that a Material Adverse Modification shall not have occurred, and may not be claimed by either Seller or Department, unless the Claiming Party provided the Notice of Material Adverse Modification required by Section 2.13(a) to the Non-Claiming Party and the Cal ISO no later than fifteen (15) days after the receipt of the PVR Notice.

(c) If the Cal ISO or any other entity or person that is not a Related Entity of the Claiming Party files with FERC a filing seeking a modification to the Physical Validation Rule that is, or becomes, the subject of a Notice of Material Adverse Modification (a "Claimed Material Adverse Modification"), Seller and Department shall each file with FERC a request that: (i) prior to issuing any decision accepting the Claimed Material Adverse Modification, FERC determine whether the Claimed Material Adverse Modification would constitute a Material Adverse Modification; and (ii) FERC make the determination contemplated in Section 2.13(c)(i) only after providing an opportunity for the Cal ISO, Department, Seller, the load serving entity serving as the scheduling coordinator for Department under the Agreement, and any other entity who wishes to do so, to provide evidence relevant to the issue; provided, however, that neither Seller's or Department's obligation to make such requests shall eliminate, or affect in any way, Seller's or Department's obligation to oppose efforts to modify or eliminate the Physical Validation Rule in accordance with the provisions set forth in Section 6.2 of the Settlement Agreement.

(d) If FERC determines the Claimed Material Adverse Modification is or would be a Material Adverse Modification, FERC shall provide notice of such determination to the Cal ISO, Department, Seller and any other entity that submitted evidence on the issue.

(e) If FERC determines that the Claimed Material Adverse Modification is or would be a Material Adverse Modification, then concurrent with making a determination that it will accept the Claimed Material Adverse Modification, after accepting evidence from Seller and Department relevant to the issues to be determined in the following Section 2.13(e)(i), FERC shall: (i) determine how the Agreement and Settlement Agreement should be modified, considering the intent of Seller and Department as expressed in the Settlement Agreement and Amendment No. 1, so as to best preserve the benefits and burdens of Seller and Department under the Settlement Agreement and the Agreement (as amended by Amendment No. 1); and (ii) order Seller and Department to execute amendments to the Settlement Agreement and Agreement (as amended by Amendment No. 1) consistent with FERC's determinations made pursuant to Section 2.13(e)(i), ("New Settlement Agreement" and "New Amendment"),

respectively). Seller and Department expressly acknowledge, and agree not to challenge, during the Term FERC's ongoing jurisdiction and authority to make the determinations and orders contemplated in Section 2.13(e)(i) and Section 2.13(e)(ii); provided, however, that if acceptance from FERC of the Claimed Material Adverse Modification is requested on an expedited basis, then FERC shall take the evidence and make the determinations and orders contemplated in Sections 2.13(c)(i), 2.13(c)(ii), 2.13(e)(i) and 2.13(e)(ii) as soon as practicable after accepting the Claimed Material Adverse Modification; and provided, further that Seller's and Department's agreement not to challenge during the Term FERC's ongoing jurisdiction and authority to make the determinations and orders contemplated in Section 2.13(e)(i) and Section 2.13(e)(ii) shall not preclude either Seller or Department from exercising, nor be deemed to be a waiver of, either Seller's or Department's rights to appeal from any order made pursuant to Section 2.13(e)(ii), with the exception of Seller's and Department's rights to challenge on appeal FERC's jurisdiction and authority to have entered any order made pursuant to Section 2.13(e)(ii), which rights Seller and Department each expressly waive. Until such time as a New Amendment and New Settlement Agreement are in effect, the Settlement Agreement and Amendment No. 1 shall be, and remain, in effect.

(f) If prior to FERC's determination of whether a Claimed Material Adverse Modification is or would be a Material Adverse Modification: (i) FERC accepts the Claimed Material Adverse Modification; and (ii) the Claimed Material Adverse Modification is in effect, upon written notice to the Non-Claiming Party, the Claiming Party, at its option, may declare a Section 2.12 Non-Effective Period (a "Declared Section 2.12 Non-Effective Period"). For any Declared Section 2.12 Non-Effective Period, Seller's and Department's rights and obligations under the Agreement (as amended by Amendment No. 1) shall be determined as though a Section 2.12 Non-Effective Period were in effect; provided, however, that

- (i) if FERC determines that the Claimed Material Adverse Modification is a Material Adverse Modification and orders a New Amendment and New Settlement Agreement, then, upon the effective date of the New Amendment: (A) the Declared Section 2.12 Non-Effective Period shall end; and (B) the Claiming Party shall pay to the Non-Claiming Party an amount equal to the difference between (1) the total costs, including without limitation congestion costs, incurred by the Non-Claiming Party and/or its agents, contractors or scheduling coordinators, for the Energy delivered during the Declared Section 2.12 Non-Effective Period; and (2) the total costs, including without limitation congestion costs, that would have been incurred by the Non-Claiming Party and/or its agents, contractors or scheduling coordinators, for the Energy delivered during the Declared Section 2.12 Non-Effective Period if such Energy had been scheduled and/or delivered for settlement in accordance with the provisions of the New Amendment; and
- (ii) if FERC determines that the Claimed Material Adverse Modification is not a Material Adverse Modification, then: (A) the Declared Section 2.12 Non-Effective Period shall end; and (B) the Claiming Party shall pay to

the Non-Claiming Party an amount equal to the difference between (1) the total costs, including without limitation congestion costs, incurred by the Non-Claiming Party and/or its agents, contractors or scheduling coordinators, for Non-Section 2.12 Nodal Deliveries during the Declared Section 2.12 Non-Effective Period, and (2) the total costs, including without limitation congestion costs, that would have been incurred by the Non-Claiming Party and/or its agents, contractors or scheduling coordinators, for Non-Section 2.12 Nodal Deliveries during the Declared Section 2.12 Non-Effective Period if such Energy had been scheduled and/or delivered for settlement at the EZ-Gen Hubs for the respective Cal ISO Zones in which the Nodes at which such Energy was delivered reside.

3. Entire Agreement. The Agreement (as amended by Amendment No. 1), Sempra Generation's Tariff, and the Enabling Agreement shall form a single integrated agreement between Sempra Generation and Department. Any inconsistency between any terms of Sempra Generation's Tariff and the Enabling Agreement, on the one hand, and any terms of the Agreement, on the other hand, shall be resolved in favor of the Agreement (as amended by Amendment No. 1).

4. Effective Date. Amendment No. 1 shall automatically become effective upon the Amendment No. 1 Effective Date. Sempra Generation and Department acknowledge and agree that until the Amendment No. 1 Effective Date, Amendment No. 1 shall be of no force or effect, including without limitation with respect to the interpretation of the Agreement for any purpose whatsoever by Sempra Generation, Department or any other person.

5. No Waiver. By entering into the Settlement Agreement and Amendment No. 1, neither Sempra Generation nor Department waives any claim or right in the Seller's Choice Proceeding, or in any other proceeding, concerning issues other than the issues that are the subject of the Settlement Agreement.

6. Effect on Agreement. Except as expressly provided by Amendment No. 1, all provisions in the Agreement shall otherwise remain unchanged and each of Sempra Generation and Department reserve all rights, arguments and positions concerning the correct interpretation of those provisions, including, without limitation, with respect to the claims raised in the pending arbitration or other litigation between Department and Sempra Generation.

7. Counterparts. Amendment No. 1 may be executed in one or more counterparts, all of which will be considered one and the same agreement and the execution of Amendment No. 1 shall become effective when one or more counterparts have been signed by each of Sempra Generation and Department, including by facsimile, to the other party.



IN WITNESS WHEREOF, Sempra Generation and Department have caused Amendment No. 1 to be executed by their duly authorized representatives as of the 21st day of June 2005.

DEPARTMENT OF WATER RESOURCES with respect to the Department of Water Resources Electric Power Fund separate and apart from its powers and responsibilities with respect to the State Water Resources Development System

By: \_\_\_\_\_  
Name: Peter S. Garris  
Title: Deputy Director

SEMPRA GENERATION

By: Michael R. Niggli  
Name: Michael R. Niggli  
Title: President

By: William R. Engelbrecht  
Name: William R. Engelbrecht  
Title: Vice President – Energy Supply